

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RICHARD J. GACHO, Sr.,)	
)	
Plaintiff,)	07 C 6378
)	
v.)	Honorable Judge
)	Wayne Andersen
SUPT. ANDREWS, LT. TUCKER,)	
C/O COLLAZO, C/O PIERCE, JOHN DOE)	
)	
Defendants.)	

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

NOW COME Defendants, Superintendant Andrews, Lieutenant Tucker, Officer Collazo and Officer Pierce (hereinafter "Defendants") by and through their attorney RICHARD A. DEVINE, State's Attorney of Cook County, through his assistant SARAH M. BURKE, and answers Plaintiff's Complaint as follows:

1. I was shot in the foot in July of 2001 and suffered nerve damage in my left foot among other injuries. In September of 2003 the same foot I was shot in 2 years earlier my arch collapsed and locked into place.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 1.

2. When my arch collapsed it caused my left hip to displace which caused scoliosis of my spine. My injuries were very extensive and I was referred to a Chiropractor for therapy because I could not walk and to make adjustments to my spine to ease my pain.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2.

3. I went through six months of therapy just to be able to walk again, then still experienced severe foot, leg and back pain for six additional months. I was told at that time there is corrective surgery to repair my broken arch, but the back pain was something I would have to live with.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the truth of the allegations contained in Paragraph 3.

4. The only other therapy available to help my condition from advancing further would be to live a healthy lifestyle, including lose weight and exercise and “always” wear supportive footwear, that supports my through their contours.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 4.

5. At that point my doctor suggested I wear high end running shoes, with orthopedic insoles because they were the most supportive shoes available. From that point forward I always wore the correct shoes which most assuredly did as was suggested they would kept my injuries from advancing.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 5.

6. Fast forward to July 2005. I was arrested and have remained in the custody of the Cook County Jail since shortly after being arrested I was seen by doctors here at Cook County Jail for back pain. At that point I made them aware of the history of my condition and told the doctors that I made regular visits to a Chiropractor to help with my pain.

ANSWER: Defendants admit that the Plaintiff is an inmate at Cook County jail.

Defendants are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 6.

7. I was told the Cook County jail did not employ a Chiropractor and was offered medicine for my pain. I went to the doctors a couple of times after that visit for more foot and back pain.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 7.

8. Then in August 2006 I told the doctors here at the jail that I was in need of new shoes and the shoes on commissary were not the proper shoes for my condition. The doctors told me the jail had no shoes to provide me with, but he would write a order allowing my family to bring me the proper footwear that he acknowledged I needed for my condition.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 8.

9. My family brought me shoes and everything remained the same. I returned again to the doctor in June 2007 for pain and swelling in my left foot and was sent to a physical therapist here at the jail. She did an analysis of my condition, gave me a few new exercises to help strengthen my foot and renewed my order allowing my family to bring me new running shoes.

ANSWER: Defendants admit to working with the Plaintiff and his family to provide him footwear. Answering further, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 9.

10. The order was forwarded to the case worker here in Division 10 who then proceeded to procrastinate for two and half months to make a notation of the order of the order, return the order back to me, and tell me to have my family bring the shoes to the jail.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 10.

11. The policy at the Cook County Jail as of September 27, 2007 which is posted on each tier, that the only detainees who will be allowed to keep their own personal foot wear would be those detainees with proper doctor orders, which I have had since I've been in custody. But then on October 3rd 2007 my shoes and insoles, but I was told that the jail was no longer honoring doctor's orders and I had 2 options.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 11.

12. Give up my shoes willingly or (2) be sprayed in my eyes with mace and have my shoes forcefully taken from me and he sent to segregation for not complying with direct orders, so I willing gave up my shoes.

ANSWER: Defendants deny the allegations contained in Paragraph 12.

13. I wrote a grievance on October 4, 2007 which I was called into a meeting with Lt. Tucker and John Doe Sergeant on October 5, 2007 concerning my grievance. At that point Lt. Tucker reviewed my doctor orders, and after making a medical decision which is completely out

of the scope of his position as a jail guard, he agreed that my condition required I wear proper footwear.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 13.

14. Lt. Tucker chose to comply with my doctor orders allowing my family to bring me running shoes. At that point my understanding was that my grievance was satisfied. On October 11, 2007 my mother Judy Macedo brought me the proper running shoes which were approved by my long time Chiropractor to the jail with a letter of approval by my Chiropractor.

ANSWER: Defendants admit to working with the Plaintiff and his family to provide him footwear. Answering further, Defendants are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 14.

15. At which time Lt. Tucker viewed the shoes and again made "his" own medical decision that they were not the proper shoes for my medical condition. My mom after being completely disrespected by Lt. Tucker was turned away.

ANSWER: Defendants deny the allegations contained in Paragraph 15.

16. The next day October 12th 2007 my sister Melissa Gacho returned to the jail with the same running shoes and Supt. Andrews now inspected them and made "his" own medical decision that the shoes she had were not the proper shoes for my condition, and made "another medical decision" and suggested that type of shoes that she should bring me.

ANSWER: Defendants admit to working with the Plaintiff and his family to provide him footwear. Answering further, Defendants are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 16.

17. My sister then went out and bought another pair of shoes and brought them to my Chiropractor who determined that those were not the proper shoes for my condition, that he shoes my mother had the day earlier were.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 17.

18. Where the situation stands now is I still don't have the proper footwear, and if I question Lt. Tucker concerning the decision being made I am threatened with disciplinary action, being sprayed in my eyes with mace and sent to segregation.

ANSWER: Defendants deny the allegations contained in Paragraph 18.

19. In the mean time I am experience terrible foot, leg and back pain which is worsening by the day. My understanding is the jail is responsible for my medical needs, which is instead being laid in the lap of my family, but the jail is not honoring its own doctor's orders.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 19.

20. I knew of no other remedies available to me besides the legal intervention I am seeking from the court in this claim.

ANSWER: Defendants are without sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 20.

AFFIRMATIVE DEFENSES

NOW COME Defendants, through their attorney, RICHARD A. DEVINE, State's Attorney of Cook County, by his assistant, Sarah M. Burke, and asserts the following Affirmative Defenses: Plaintiff's Complaint at law as follows:

FIRST AFFIRMATIVE DEFENSE

The Defendants' conduct was at all times objectively reasonable and did not violate any of Plaintiff's clearly established Constitutional rights. Accordingly, the Defendants are entitled to the defense of Qualified Immunity.

SECOND AFFIRMATIVE DEFENSE

Defendants assert that that each is a Public Employee as defined by *The Local Governmental and Governmental Employees Tort Immunity Act*, 745 ILCS 10/2-214, *et. seq.*(1989), and is protected by the immunities and defenses provided for therein.

WHEREFORE, Defendants, Superintendant Andrews, Lieutenant Tucker, Officer Collazo and Officer Pierce , prays that this Honorable Court enter a finding that Plaintiff is not entitled to the relief requested in the Complaint and that Plaintiff's Complaint be dismissed with prejudice and that this Court grant any other such relief to Defendants as it deems proper and just.

JURY DEMAND

Defendants demand trial by jury.

Respectfully Submitted,
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